



Daniel S. Greenbaum  
Commissioner

Gilbert T. Joly  
Regional Director

56058  
*The Commonwealth of Massachusetts*  
*Executive Office of Environmental Affairs*  
*Department of Environmental Quality Engineering*

*Southeast Region*

*Lakeville Hospital, Lakeville, Massachusetts 02347*

*947-1231, Ext. 680-684*

**RECEIVED**

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June 30, 1988

Kathleen J. Burns, Commissioner  
City of New Bedford  
Department of Public Works  
133 William Street  
New Bedford, Massachusetts 02740

RE: NEW BEDFORD--OIR/SA 4-127  
Substations/Interceptors  
Acushnet St., Belleville Avenue,  
Massachusetts General Laws,  
Chapter 21E

Dear Commissioner Burns:

On December 31, 1985, the Department of Environmental Quality Engineering issued a notice of responsibility under M.G.L., Chapter 21E to the City of New Bedford, Department of Public Works for a release of hazardous materials. Following this notification, the City of New Bedford hired a licensed cleanup contractor to remove PCB contaminated material from the Howard Avenue pump station in July of 1986. The Department has reviewed your letter of December 18, 1987, to Ms. Gail Costellas which documents the Howard Avenue remedial action. In addition, the Department has reviewed a report entitled "Grit Study," dated August 31, 1987, prepared by Camp Dresser & McKee. Results of analyses presented in this report show that PCB's are present in the grit which has accumulated in the main interceptor sewerline. The levels shown in this report range from 12 parts per million (ppm) to 285 ppm on a dry weight basis and the highest levels of PCB's were detected in areas of the most severe grit accumulations. According to this report the area affected appears to include the Belleville Avenue collector, beginning at a point above Sawyer Street, and the main interceptor sewer and extending to, at the minimum, Union Street.

These conditions constitute a release and threat of release of hazardous materials at the site. The mitigation or prevention of such a release is governed by M.G.L., Chapter 21E, the "Massachusetts Oil and Hazardous Material Release Prevention and Response Act."

This letter is to inform you that:

1. Based on information available to the Department of Environmental Quality Engineering, the Department has reason to believe that the City of New Bedford is a responsible party with liability under M.G.L., Chapter 21E, Section 5(a)(1). The nature of this liability is joint and several without regard to fault; and

2. The Department is authorized, pursuant to M.G.L., Chapter 21E, Section 4, to arrange for or take actions which it deems necessary to respond to the release. The City of New Bedford may take the prescribed response actions in lieu of the Department.

The liability noted in one above, for the City of New Bedford, may include up to three times the costs of:

- a. All response costs incurred by the Department due to the release/threat of release, including all contract, administrative and personnel costs; and
- b. All damages for any injury to destruction or loss of natural resources due to the release/threat of release.

The liability constitutes a debt to the Commonwealth. The debt, together with interest, creates a lien on all non-residential real property owned by the City of New Bedford located in the Commonwealth of Massachusetts. In addition to the foreclosure remedy provided by the lien, the Attorney General of the Commonwealth may recover that debt or any part of it in an action against the City of New Bedford. The City of New Bedford may also be liable under M.G.L., Chapter 21E, Section 11 for up to \$100,000 in fines and penalties for each violation of Chapter 21E, as well as for additional penalties or damages pursuant to other statutes or common law.

If you intend to take the necessary response action in lieu of the Department, you must notify the Department in writing of your intent within thirty (30) days of receipt of this letter. In addition you must contract with a consultant knowledgeable in the area of hazardous waste site assessment and abatement.

Recent discussions with staff members of the Attorney General's Office and of the Department's Division of Water Pollution Control indicate that the City may request the Environmental Protection Agency (EPA) to include the contaminated grit in the evaluation of remedial alternatives for the New Bedford Harbor Federal Superfund site. In the event that the City selects as the alternative for site remediation, removal and treatment of the grit along with the waste from the Superfund site, this alternative may be acceptable to the Department. The Department will consider this alternative provided the following conditions are met:

1. A written request for evaluation and inclusion of the contaminated grit in the New Bedford Harbor Feasibility Study must be submitted to the EPA;
2. Technical data on the nature and extent of contamination, including the physical and chemical characteristics of the grit must be provided to the EPA project manager for the New Bedford Harbor Superfund site. Information on sources of contamination must also be included. Special attention should be given to the areas upstream of Sawyer Street in the Belleville Avenue

collector and previous sewer discharge violations in this area. The project manager shall determine the need for any further data required for effective evaluation of the grit during the New Bedford Harbor Feasibility Study;

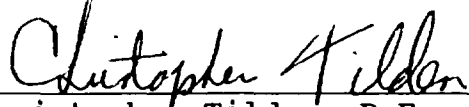
3. Your recent submittal to Peter Kenyon, Esquire, Office of Regional Counsel, U.S. Environmental Protection Agency and Madelyn Morris, Esquire, Department of the Attorney General, Commonwealth of Massachusetts outlining a sampling protocol is currently under review. This proposal must also be submitted to the EPA project manager for approval as outlined above, should the City decide to submit a request to the EPA to include the contaminated grit in the New Bedford Harbor Feasibility Study;
4. A plan for a temporary solution for this site which complies with M.G.L., Chapter 21E, Section 3A(f) must be submitted to the Department within one hundred twenty (120) days of receipt of this letter. At a minimum, this plan shall identify:
  - a. the nature and extent of grit contamination;
  - b. a proposed temporary solution to completely contain the sewerline contamination;
  - c. temporary measures designed to be effective for a minimum of fifteen years;
  - d. appropriate systems to monitor the effectiveness and assurances that such systems shall be installed, maintained and operated;
  - e. steps in which the City will take to restore the effectiveness of the temporary solution should the system fail; and
  - f. aspects of a design which will facilitate a permanent solution as described in M.G.L., Chapter 21E, Section 3A(f) and (g); and
5. A final remedial response plan for this site must be submitted to the Department that includes a proposal for a permanent solution if no solution becomes available for the New Bedford Harbor remedial action.

All assessment and remediation conducted at the site must be in compliance with the Consent Decree, United States et al. v. City of New Bedford, Civil Action No. 87-2497-T, 87-2498-T and all information should also be submitted to the Department's Division of Water Pollution Control.

The Department requires written confirmation that the City of New Bedford will undertake the actions outlined above within fifteen (15) business days of receipt of this letter.

Please refer your response and questions to the attention of Debra Kelley-Dominick of this office or Helen Waldorf of our Boston office at 292-5819.

Very truly yours,

  
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Christopher Tilden, P.E., Chief  
Hazardous Waste Section

T/DKD/bh

CERTIFIED MAIL #P480 967 867  
RETURN RECEIPT REQUESTED

cc: DEQE - OIR  
ATTN: Ed Benoit  
Helen Waldorf

DEQE - DWPC  
ATTN: Bill Gaughan

SERO - DWPC  
ATTN: Jeff Gould

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